IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
Writ Petition No. 1170 of 2004 (M/B)

1. Smt. Nirmala Arya W/o Sri Harish Chandra Arya,
   Gram Sabha Chachai, P.O. Kanyalikote,
   Block Kapkote, District Bageshwar.
2. Sri Pratap Singh Kathayat,
   Gram Pradhan,
   Gram Sabha Karmi, P.O. Karmi,
   District Bageshwar. …… Petitioners

Versus

1. State of Uttaranchal,
   through Education Secretary,
   Uchchattar Madhyamik Shiksha,
   Uttaranchal, Dehradun.
2. Zila Shiksha Samiti,
   through Upper Zila Shiksha Adhikari,
   Bageshwar. …… Respondents

Mr. D.N. Sharma, Advocate on behalf of Mr. M.S. Pal, Senior Advocate for the petitioners.
Mr. Subhash Upadhyaya, Standing Counsel for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. D.N. Sharma, Advocate on behalf of Mr. M.S. Pal, Senior Advocate for the petitioners.

Mr. Subhash Upadhyaya, Standing Counsel for the respondents.

They are heard.

2. The petitioners had filed this writ petition in the year 2004 for the following reliefs:

> "a. To issue a writ, order or direction in the nature of mandamus commanding the respondents to upgrade Primary School Chachai and Primary School Sapuli, in Vikas Khand Kapkote, District Bageshwar;
>
> b. To issue a writ, order or direction in the nature of mandamus directing the respondents to give effect to

list ANNEXURE-2 according to the strength of the students at the time of upgradation of the schools in the Block Kapkote, District Bageshwar;

c. To issue any other writ, order or direction which this Hon'ble Court deems fit and proper in the circumstances of the case;

d. To award cost of this writ petition to the petitioners."

3. In substance, the petitioners were seeking a direction to the respondents to upgrade Primary Schools at Chachai and Sapuli in Vikas Khand Kapkote, District Bageshwar.

4. In the counter affidavit filed on behalf of the respondents, following averments have been made in para 10:

"10. That thereafter proposal and representation was received by District Magistrate, Bageshwar regarding opening School in Chachai and the District Magistrate, Bageshwar sanctioned under "Education Guarantee Scheme" Junior High School for Chachai vide his order dated 11.1.2005 and the School has now been opened. It is further stated that as far as opening of Junior High School in Sapuli is concerned the same is under consideration and as and when sanction from the Government is obtained the same will be considered on priority. In this connection, copy of the order dated 11.1.2005 passed by District Magistrate, District Bageshwar is annexed herewith and is marked as ANNEXURE NO. C.A. 3 to this counter affidavit."

5. Thus, it is apparent that during the pendency of the writ petition, a Junior High School has been established at Chachai vide order dated 11.01.2005 and the matter relating to the opening of a Junior High School in Sapuli is under active consideration of the State Government on priority.

6. Thus, the petitioners have virtually succeeded in their mission. The writ petition, therefore, is liable to be closed leaving it open to the petitioners to get it revived if the future developments so warrant.

7. With this observation, the writ petition stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
19.05.2006 19.05.2006

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